

09-23-05

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PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Wan et al.  
Serial No.: 10/654,303  
Filed: September 2, 2003  
For: COMMUNICATIONS  
POINT-OF-PRESENCE  
Group Art Unit: 2682  
Examiner: Tuan A. Tran  
Attorney Docket: Sympel03-01-1

<b>CERTIFICATE OF FIRST CLASS MAIL</b> 37 C.F.R. § 1.10	
being:	I hereby certify that this paper is
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	on this date.
Sept. 14, 2005	<i>[Signature]</i>
Date	Gerald L. Robertson Attorney for Applicant

**RESPONSE TO OFFICE ACTION**

Hon. Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

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**SEP 23 2005**

Sir:

Status of the Application

The above-referenced application has been rejected under 35 U.S.C. 103(a) as being unpatentable over Zendle et al. (6,628,237) in view of Pedersen (2003/0125089).

One claim is pending, rejected as stated immediately above.

Remarks

In order to sustain an obviousness rejection under 35 U.S.C. 103(a), each of the references cited must constitute prior art over the instant application.

Zendle, relied on first by the examiner in this rejection issued September 30, 2003, 28 days after the instant application was filed. Therefore, it cannot be considered prior art in a 35 U.S.C. 103(a) rejection. As a search of the PAIR system in the United States Patent and Trademark office yields no record of the Zendle application having been published, the actual prior art reference date at operation here would be the issue date as pointed out above. Consequently, it is inappropriate



09-19-2005

U.S. Patent & TMO/TM Mail Rcpt Dt. #72